

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

Norman Clark,)
)
Plaintiff,) Case No.
v.)
)
Northland Group, Inc.,)
)
Defendant.)
)

PETITION FOR REMOVAL WITH SUPPORTING MEMORANDUM OF LAW

The Defendant/Petitioner, Northland Group, Inc. (“Northland” or “Defendant/Petitioner”), by and through its undersigned counsel, respectfully petitions this Honorable Court for removal of the above-styled civil action from the 402nd Judicial District Court, in and for Wood County, Texas, to the United States District Court for the Eastern District of Texas, and states as follows:

1. Defendant/Petitioner Northland has been named as a defendant in a civil action brought against it in the 402nd Judicial District Court in and for Wood County, Texas styled “*Norman Clark v. Northland Group, Inc.*”, *Case No 2014-187*. A copy of Plaintiff’s Original Petition served in that action, in addition to all process and pleadings served upon Defendant/Petitioner is attached hereto as Exhibit A.
2. That the aforesaid action was commenced by service of process consisting of said Citation and Plaintiff’s Original Petition, upon the Defendant/Petitioner Northland on or about March 26, 2014.

3. That the controversy herein between the Plaintiff and Defendant/Petitioner is a controversy arising under and based upon consumer protection rights created by and enforced through Federal Statute 15 U.S.C. Sec. 1692 *et seq.* entitled the Fair Debt Collection Practices Act (“FDCPA”).

4. That the above described action is a civil action of which this Court has original jurisdiction under the provisions of Title 28, United States Code, §1331, and is one which may be removed to this Court by the Defendant/Petitioner pursuant to the provisions of Title 28, United States Code, §1441(a), in that it is a civil action based upon a federal question over which this Court has original jurisdiction.

5. This Notice of Removal is filed with this Court within 30 days after service on Defendant/Petitioner of the Petition or Complaint in the above-styled action and is, therefore, timely pursuant to 28 U.S.C. §1446(b).

MEMORANDUM OF LAW IN SUPPORT OF PETITION FOR REMOVAL

Statement of the Case and Facts

6. The instant suit is a civil action which includes a federal question, specifically, a claim that the Defendant/Petitioner violated the Plaintiff's consumer protection rights under the Fair Debt Collection Practices Act. The Original Petition seeks an award of damages against this Defendant/Petitioner, for alleged violations of this federal consumer protection statute. Plaintiff alleges that he has sustained damages and seeks judgment for those damages against this Defendant/Petitioner.

Federal Court Jurisdiction

7. This Court has jurisdiction of this case pursuant to 28 U.S.C. §1331. Section 1331 states as follows:

§1331. Federal question.

The federal district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws or treaties of the United States.

8. The original Petition herein raises a federal question and satisfies the jurisdictional requirements of 28 U.S.C. §1331. This Honorable Court therefore has original jurisdiction of this civil action.

Removal

9. This is an action which may properly be removed to this Court pursuant to 28 U.S.C. §1441 which states in pertinent part as follows:

"Except as otherwise expressly provided by act of Congress, any civil action brought in a state court of which the district courts of the United States has original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending..."

10. Given that this action is one over which the United States District Court for the Eastern District of Texas would have original jurisdiction, this case may properly be removed by Defendant/Petitioner pursuant to 28 U.S.C. §1446(a) which provides:

"A defendant or defendants desiring to remove any civil action or criminal prosecution from a state court shall file in the district court of the United States for the district and division within which such action is pending a Notice of Removal, signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for

removal, together with a copy of all process, pleadings and orders served upon such defendant or defendants in such action."

11. In the instant suit, the Defendant/Petitioner has filed a Notice which complies with 28 U.S.C. §1446(a), in that it sets forth facts that show that this Court has original jurisdiction and that this case is subject to removal.

Timeliness of Removal

12. 28 U.S.C. §1146(b) requires that a Notice of Removal in a civil action or proceeding shall be filed within thirty (30) days after receipt by Defendant/Petitioner, through service or otherwise, of a copy of the initial pleadings setting forth the claim for relief upon which the action or proceeding is based. The original Complaint was filed with the 402nd Judicial District Court on March 24, 2014, and served upon the Defendant/Petitioner on or about March 26, 2014, and this Petition for Removal has been filed less than thirty (30) days from service of the Original Petition.

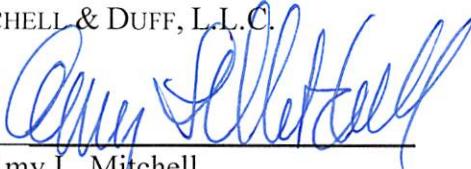
Consent of Co-Defendants

13. Undersigned counsel represents that no other Co-Defendant has been listed or served as a party to this lawsuit and, with respect to this removal, and therefore no consent is necessary.

WHEREFORE, Defendant/Petitioner Northland respectfully requests this Honorable Court enter its Order removing the entire case from the 402nd Judicial District Court in and for Wood County, Texas, to the United States District Court, Eastern District of Texas.

Respectfully submitted:

MITCHELL & DUFF, L.L.C.

By: 

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**ATTORNEYS FOR DEFENDANT
NORTHLAND GROUP, INC.**

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished via U.S. Mail this 21st day of April, 2014, to:

Gabriel Meyrat (#24053935)
P.O. Box 570396
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Amy L. Mitchell